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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,568	02/24/2000	Mich B. Hein	TSRI-184.2Con3	5810
75	90 09/10/2002			
Barry S. Wilson			EXAMINER	
Foley & Lardner P.O. Box 80278			COLLINS, CYNTHIA E	
San Diego, CA 92138-0278				
<b>5</b> /			ART UNIT	PAPER NUMBER
			1638	
			DATE MAILED: 09/10/2002	کیک

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Popular Colins			Application No.	Applicant/o			
Examiner   Cynthia Collins   1638	Office Action Summary			Applicant(s)			
Cynthia Collins   Cynthia Cynthi							
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Earthcard of the many be switched under the provision of 3 CPR 1-130(s). In roward however, may a raply be trinely liked.  If the period for reply specified above is less than thinty (30) days, as reply within the statisticy minimum of theiry (30) days will be considered immaly.  If the period for reply specified above is less than thinty (30) days, as reply within the statisticy minimum of theiry (30) days, as will be considered immaly.  If the period for reply specified above is less than thinty (30) days, as reply within the statistics or the replication to become A4ANDONEO (25 U.S.C.§ 113).  Part of the period for reply specified above is less than thinty (30) days. as reply within the statistics or the second replication to the communication.  Facility within the set of sederated period for reply with by statistics in the second replication to the second replication is communication.  Facility within the set of sederated period for reply with by statistics and second replication to the second replication is considered period for replication is considered period for replication of the second replication is considered period for replication is not considered and second replication is not considered period for replication is not considered to the provision of the period for replication is not considered to the period for replication is described by the second replication is described by the second replication requirement.  Application Papers  9   Claim(s) 21, 24-40, 43, 50, 54-63 and 69-100 are subject to restriction and/or election requirement.  Application Papers  9   The drawing(s) field on							
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions or ther may be available under the provisions of 3 CFR 1.13(a). In no event, however, may a riphy be timely filed with 50 (8) MONTHS from the mailing date of this communication.  If NO period for riphy is specified above, the mainimum statulary period with the stations minimum of thing (30) days with be considered interply.  If NO period for riphy is specified above, the mainimum statulary period with alloy and will extract \$(6) (MONTHS from the mailing date of this communication. Pallius to riphy within the stor or extended period for riphy.  Failuse to riphy within the set or extended period for riphy will, by statules, cause the application to become ABANDONED (38 U.S.C. § 133). Any relay received by the Office and extend the remaining state of this communication, even if timely filed, may reduce any 3.4 Any set by received by the Office and extendition from all owns and the remaining state time application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 21, 24-40, 43, 50, 54-63 and 69-100 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) is/are objected to by the Examiner.  10) The specification is objected to by the Examiner.  10) The proposed drawing state and solve that any objection to the drawing(s) be held in abovance. See 37 CFR 1.85(a).  11) The proposed drawings are required in reply to this Office action.  12) The cath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1 In the proposed of the priority documents have be	Period fo	r Reply		correspondence address			
2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)  21, 24-40, 43, 50, 54-63 and 69-100 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6)  Claim(s) is/are ellowed.  6)  Claim(s) is/are ellowed.  6)  Claim(s) is/are objected to.  8)  Claim(s) 21, 24-40, 43, 50, 54-63 and 69-100 are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c) None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.  Attachment(s)  Notice of References Cited (PTO-892)  b) Notice of Internal Application (PTO-152)	THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 21, 24-40, 43, 50, 54-63 and 69-100 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.  8) Claim(s) is/are objected to.  8) Claim(s) is/are objected to by the Examiner.  10) The graving(s) filled on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1 Certified copies of the priority documents have been received.  2 Certified copies of the priority documents have been received in Application No  3 Copies of the certified copies of the priority documents have been received in Application No  3 See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional ap	1)⊠	Responsive to communication(s) filed on 28 Ja	une 2002 .				
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Application/Control Number: 09/512,568

Art Unit: 1638

## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 21, 24-40, 43, 50, 54-63 and 69-80, drawn to plant cells, classified in class 435, subclass 419, for example.
- II. Claims 81-100, drawn to an immunoglobulin, classified in class 530, subclass387.1, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the patentability of the combination does not necessarily rely solely upon the subcombination for its patentability. The disclosure recites and asserts the nucleotide sequence and the multimeric protein as separate inventions. Because the disclosure asserts the patentability of both inventions separately, the combination does not rely solely on either alone for its patentability. The subcombination has separate utility such as for the detection of an antigen in an immunoassay.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.

Application/Control Number: 09/512,568

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Remarks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (703) 605-1210. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (703) 306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

CC

September 4, 2002

PHUONG T. BUI

PHIMARY EXAMINER